

Message Text

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E.O. 11652: N/A

TAGS: ICJ, GR, TU

SUBJECT: ELECTION OF PROFESSOR BAXTER TO ICJ

REFS: (A) ANKARA 6059; (B) STATE 204893; (C) ATHENS 7195

1. SUBJECT REFTTEL REQUESTS INFORMATION CONCERNING PROFESSOR BAXTER'S INVOLVEMENT IN THE AEGEAN CONTINENTAL SHELF DISPUTE BEFORE THE INTERNATIONAL COURT OF JUSTICE (ICJ). PROFESSOR BAXTER'S INVOLVEMENT IN THE MATTER AS A COUNSELOR TO THE GREEK GOVERNMENT HAS BEEN EXTENSIVE. HE HAS WRITTEN SEVERAL LEGAL OPINIONS FOR THE GREEK GOVERNMENT ON ISSUES RELATED TO THE CASE, ATTENDED ICJ HEARINGS ON INTERIM MEASURES AS PART OF THE GREEK GROUP, AND HELPED
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PREPARE GREECE'S MEMORIAL ASSERTING THE ICJ'S JURISDICTION.

2. ARTICLE 17(2) OF THE STATUTE OF THE INTERNATIONAL COURT OF JUSTICE PROVIDES:

"NO MEMBER MAY PARTICIPATE IN THE DECISION OF ANY CASE IN WHICH HE HAS PREVIOUSLY TAKEN PART AS AGENT, COUNSEL,

OR ADVOCATE FOR ONE OF THE PARTIES, OR AS A MEMBER OF A NATIONAL OR INTERNATIONAL COURT, OR OF A COMMISSION OF ENQUIRY, OR IN ANY OTHER CAPACITY."

WE HAVE DISCUSSED THIS MATTER WITH PROFESSOR BAXTER AND HE IS IN COMPLETE AGREEMENT THAT HIS ROLE IN THE AEGEAN DISPUTE WOULD DISQUALIFY HIM FROM PARTICIPATION IN CONSIDERATION OF THE CASE IF ELECTED.

3. IF THIS ISSUE IS RAISED IN YOUR APPROACH CONCERNING TURKISH SUPPORT FOR BAXTER'S CANDIDACY, YOU SHOULD INDICATE THE EXTENT OF BAXTER'S INVOLVEMENT IN THE AEGEAN CASE AND OUR STRONG BELIEF THAT THE NATURE OF HIS INVOLVEMENT WOULD CLEARLY DISQUALIFY HIM UNDER ARTICLE 17 OF THE ICJ STATUTE FROM PARTICIPATION IN THE AEGEAN SEA CASE. YOU MAY ALSO INDICATE THAT WE HAVE DISCUSSED THE MATTER WITH BAXTER AND THAT HE IS IN COMPLETE ACCORD THAT HE WOULD NOT BE ABLE TO PARTICIPATE IN ICJ CONSIDERATION OF THE AEGEAN CASE. CHRISTOPHER

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